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No. 76-182

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

BENEFICIAL FINANCE CO. OF GARY, INC., *Petitioner,*

v.

DOROTHY ALLEN, *Respondent.*

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

REPLY BRIEF FOR PETITIONER

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The body of the brief in opposition (pp. 5-9) is devoted to an attempted dissection of the loan disclosure statement at issue in this case. It tracks the criticisms made by the courts below and adds some new ones. The discussion proves nothing more than that, as was indicated in the petition (Pet. 7), any attempt to deal compendiously and in tabular form with a relatively complex matter is susceptible to the criticism of anyone equipped with a measure of ingenuity who is looking for lack of clarity.

The logic of the order of dislosure in the statement at issue here was explained in the petition. It is not for a court to dictate some other order that seems to it more logical if the order of disclosure chosen is in the meaningful sequence required by the Federal Reserve Board, the agency that, unlike the courts, has been authorized by Congress to prescribe the form of disclosure statements.

Respondent goes far afield in her criticism of petitioner's disclosure statement. One of her more farfetched ideas is that, because the borrower is told in the introduction to the statement that "[t]he sum of the instalments is shown below as the TOTAL OF PAYMENTS," the borrower is conditioned to add before he reaches the figures he is supposed to subtract. (Br. in Opp. 9.) A threshold explanation of the derivation of the opening figure in the tabular material that follows, which calls for no arithmetical operation on the part of the reader, could not possibly condition the reader to add instead of subtract.

Respondent asserts that some of the additional, nonmandatory material disclosed by petitioner is set forth in a way that violates Sections 226.6(b) and (c) of Regulation Z. (Br. in Opp. 7-9.) That is not so. Those provisions specifically allow the disclosure of additional material; they restrict only the way in which material inconsistent with mandatory material can be disclosed. There is no inconsistency in petitioner's voluntary disclosures. In any event, the courts below found no violation of Section 226.6(b) or (c).

The Court of Appeals found a violation solely of the requirement of Section 226.6(a) of Regulation Z that the required disclosures "shall be made . . . in meaningful sequence . . . ." It held that meaningful sequence

precludes a subtractional sequence. Respondent denies that the court meant so to hold (Br. in Opp. 9-11), but it is impossible otherwise to read the passage of its opinion that is quoted by respondent herself.

> "The disclosure form is for the borrower and must be presented in a conceptual framework a borrower can easily comprehend. The subtractional method does not provide such a framework." (Pet. 19a.)

It is not "this subtractional method we have before us" that is condemned by the court but "the subtractional method."

The Federal Reserve Board has made clear that a form using "the subtractional method" may be in meaningful sequence. The Board quite properly declines to regulate according to labels. Speaking through its staff in a commentary on this very case, it has reaffirmed the tenor of its prior pronouncements on the meaning of "meaningful sequence" and has said that " 'meaningful sequence' cannot—and should not—be defined by reference to some rigid concept of arithmetical progression." (Pet. 30a.)

This Court should take this case and correct the error of the Court of Appeals in trying to impose just such a rigid concept.

Respectfully submitted,

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